

**MEMORANDUM OF UNDERSTANDING
BETWEEN SANTA FE COUNTY
AND THE CITY OF ESPANOLA**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "Agreement") is entered on this 13 day of APRIL 2011, by and between Santa Fe County (hereinafter referred to as "County"), a New Mexico political subdivision, and the City of Espanola (hereinafter referred to as "City"), a New Mexico "municipality" or "local public body", located at 405 N. Paseo de Onate, Espanola, New Mexico 87532.

RECITALS

WHEREAS, in the spirit of cooperation, mutual respect and service to the residents of Santa Fe County, this Agreement confirms the parties' commitment and mutual cooperation which recognize that the partnering activities between government entities may produce community and constituency benefits beyond what might be produced independently;

WHEREAS, this Agreement is exempt from the provision of the Procurement Code in accordance with NMSA 1978, Section 13-1-98(A);

WHEREAS, the City through its City of Espanola Library, provides Santa Fe County with programs that promote reading and literacy, and is committed to improving opportunities for community members to enhance their cultural and leisure activities; and

WHEREAS, the County desires to assist the City to provide library programs.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES as follows:

1. SCOPE OF UNDERSTANDING

The City, through the City of Espanola Library, shall perform the following services:

- Promote reading, literacy, and the dissemination of information free of charge to the general public;
- promote the appreciation of culture and the arts;
- inform the community about Library collections and services;
- preserve and teach about the local history and the environment; and
- cover issues of current local interest to County residents.

2. METHOD OF FUNDING

A. The total compensation to be paid under this Agreement shall not exceed \$10,000.00.

B. All payments under this Agreement shall be on a reimbursement basis for operational costs incurred by the City of Espanola Library. Prior to cost reimbursement, the City of Espanola Library shall submit to the County a fund requisition with documentation in support of each budgetary category and operational expense. Such documentation shall include the original or certified copies of invoices, vouchers, budgetary and other restrictions of expenses established by this Agreement.

C. Payment by the County shall be made upon receipt of a detailed, certified invoice supporting operational costs incurred by the City of Espanola Library. Thirty (30) business days shall be allowed for payment after receipt of the invoice.

D. Payment under this Agreement shall not foreclose the right of the County to recover any excessive or illegal payment(s).

3. EFFECTIVE DATE AND TERM

The term of this Agreement shall be from July 1, 2010 through June 30, 2011, unless earlier terminated pursuant to Paragraph 4, TERMINATION of this Agreement.

4. TERMINATION

A. Termination of Agreement for Convenience. This Agreement may be terminated by the County upon written notice to the other party at least thirty (30) days prior to the intended date of termination. By such termination, no party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

B. Termination of Agreement for Cause. If a party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if a party violates any of the covenants, agreements, or stipulations of this Agreement, the non-breaching party shall thereupon have the right to suspend or terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. Notwithstanding the above, no party shall be relieved of liability to the other party for damages sustained because of any breach of the Agreement.

5. PERSONNEL

A. The City represents that it has, or will secure at its own expense, all personnel required to perform all of the services required of it under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the County.

B. All services required hereunder will be performed by the City and the City of Espanola Library and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

6. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons or party not a party hereto.

7. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, § 41-4-1, et seq., NMSA 1978, as amended.

8. AMENDMENT

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

9. INTEGRATION CLAUSE

This Agreement incorporates all the covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants and understandings have been merged into this Agreement. No prior covenants or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

10. APPLICABLE LAW; VENUE

This Agreement shall be construed in accordance with the laws of the State of New Mexico. The City and the County agree that the exclusive forum for any

litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, First Judicial District, located in Santa Fe County.

11. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Board of County Commissioners and if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the City. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse City or City of Espanola Library for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the City.

12. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

13. NEW MEXICO TORT CLAIMS ACT

No provision of this Memorandum of Understanding modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

14. PROHIBITED ACTIVITY

The City is prohibited from using funds provided herein or personnel employed in the administration of this Agreement for political activities; sectarian or religious activities; lobbying, or political patronage.

15. ACCOUNTABILITY:

During the term of this Agreement and for a period of three years thereafter, each of the parties will maintain accurate and complete records of all disbursements made and monies received by each under this Agreement; and, upon receipt of

reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

16. NOTICES


Any notice required by this Agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

For City: The City of Espanola
405 N. Paseo de Oñate
Espanola, NM 87532
Phone: 505-747-6100
ATTN: James Lujan, City Manager

For County: Community Services Department/Community Projects
Division
901 W. Alameda, Suite 20C
Santa Fe, NM 87501
Phone: 505-670-5333
ATTN: Laura Epler


IN WITNESS WHEREOF the parties have duly executed this Agreement as of the dates written below.

SANTA FE COUNTY:


Katherine Miller, County Manager


4.13.11
Date

APPROVED AS TO LEGAL FORM:


Stephen C. Ross, County Attorney

April 7, 2011
Date

FINANCE DEPARTMENT:


Teresa C. Martinez, Finance Director

4/8/2011
Date


CITY OF ESPANOLA:


James Lujan, City Manager

4-12-11
Date


Frank R. Coppler, City Attorney

4-12-11
Date

 4/12/11
Ron Archuleta, Administrative Supervisor

Date

FEDERAL TAX ID NUMBER

85-60000752